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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,100	09/10/2003	Paul Albert Sagel	9031	4328
27752 7590 09/07/2007 THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION - WEST BLDG. WINTON HILL BUSINESS CENTER - BOX 412 6250 CENTER HILL AVENUE CINCINNATI, OH 45224			EXAMINER ROBERTS, LEZAH	
			ART UNIT 1614	PAPER NUMBER
			MAIL DATE 09/07/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Office Action Summary</b></p>	<b>Application No.</b> 10/659,100	<b>Applicant(s)</b> SAGEL ET AL.	
	<b>Examiner</b> Lezah W. Roberts	<b>Art Unit</b> 1614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

This Office Action is in response to the Request for Continued Examination filed June 21, 2007. All previous rejections have been withdrawn unless stated below.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claims***

#### **Claim Rejections - 35 USC § 103 – Obviousness (New Rejections)**

1) Claims 6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roreger et al. (US 5,456,745) in view of Sagel et al. (US 6,096,328).

Roreger et al. discloses gel film compositions comprising at least one water-soluble polymer being anion active and one water-soluble polymer being cation active. The thickening agents include polyvinylpyrrolidone (col. 4, lines 15-16 and Examples), encompassing claim 8. Actives include hydrogen peroxide and sodium hypochlorite (col. 4, lines 40-45). The gels may also comprise filling agents including titanium dioxide and calcium phosphate (col. 5, lines 4-8). The compositions comprise water and moisturizers such as polyethylene glycol (col. 2, lines 65-67) encompassing claim 9. The gel films may be combined with textile fabrics, non-wovens and/or natural or synthetic foams. The layers may also penetrate each other, for example in the case when the gel mass is applied to a fabric, non-woven, or a foam. The foams may be polyurethane or textile fabrics. The gel will at least partially fill the fabrics or foams. The backing layer may be made of polyethylene, polypropylene or cellulose acetate (col. 5,

line 49 to col. 6, line 21). In regards to the packaged limitations the reference discloses how the gels can be stored in rolled or folded condition in a container (col. 6, line 24-45). The reference differs from the instant claims insofar as it does not disclose an example with a whitening agent in combination with calcium phosphate, pyrophosphate or titanium dioxide and the amount of whitening composition per square cm of material.

Sagel et al. disclose delivering oral care compositions on a strip of material. The compositions may be used to whiten teeth, treat gums and the oral mucosa. The strip of material may comprise polymers, natural and synthetic woven materials, non-woven material and combinations thereof. The oral care substances include whitening agents such as peroxides, and phosphates as anti-tartar agents such as pyrophosphate. The amount oral care substance applied to the strip is dependent on the desired benefit. The oral care substance per square cm of material is less than about 0.2 grams/cm<sup>2</sup> (col. 6, lines 34-44). The reference differs from the instant claims insofar as it does not disclose that the woven or non-woven materials are a mesh comprising a plurality of fibers.

It would have been obvious to one of ordinary skill in the art to have applied the oral care substance in an amount at less than about 0.1 grams/cm<sup>2</sup> on to the fabrics of the primary reference motivated by the desire to use enough substance to obtain the desired effect as disclosed by the secondary reference.

2) Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roreger et al. (US 5,456,745) in view of Sagel et al. (US 6,096,328) as applied to claims 6 and 8-10 above, and further in view of Ruben (US 6,146,655).

The primary and secondary references, Roreger et al. and Sagel et al., are discussed above. The references differ from the instant claims insofar as they do not disclose the diameter of the fibers comprised in the mesh.

Ruben discloses oral bandages and drug delivery systems. The systems are gel/fiber compositions wherein the fiber is used as reinforcement to the gel. The fibers have an individual length of at least 3 mm, and preferably in the range of from about 2 mm to about 4 mm, to obtain the desired reinforcement effect. There should be at least one order of magnitude difference between the diameter and length of the fibers (col. 3, lines 35-45). It is concluded the fibers will have a diameter of at the 200 microns when the length of the fibers is 2 mm. After the kit is removed from the liquid, the tacky fiber-reinforced gel is removed from the package and envelope, and manually molded and positioned in place over a desired tissue surface in a patient's oral cavity. The fiber may be made of natural cellulosic fibers or synthetic fibers (col. 4, lines 53-65). The reference differs from the instant claims insofar as it does not teach the fibers form a mesh and the compositions include a tooth-whitening agent.

It would have been obvious to one of ordinary skill in the art to have used the fibers in the strips of the primary reference motivated by the desire to use material that would reinforce the gel compositions when wet and placed in the mouth as taught by the secondary reference.

Claims 6-10 are rejected.

No claims allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lezah W. Roberts whose telephone number is 571-272-1071. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin H. Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lezah Roberts  
Patent Examiner  
Art Unit 1614



Frederick Krass  
Primary Examiner  
Art Unit 1614

